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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 001370

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SUBJECT: IRAQI POLITICIANS CONSIDER THE PAST AS THEY PLAN FOR NATIONAL ELECTIONS

REF: BAGHDAD 1158

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Classified By: Acting Political Counselor John Fox for reasons 1.4 (d).

Summary

¶11. (C) While the Iraqi Parliament has not begun formal debate on elections legislation, political blocs have begun their internal strategizing on the elections. The Prime Minister has privately stated a preference for open lists, but several parliamentarians have told us that the larger parties are inclined toward a closed list. The head of the Higher Judicial Council has ruled that elections must take place by January 30. Parliament has summoned the Chairman of the Independent High Electoral Commission (IHEC) for questioning in plenary session. Some Iraqi Islamic Party (IIP) and Fadhila members have called for the resignation of at least two top members of the Board of Commissioners, or even the entire Board -- an act UNAMI says could jeopardize IHEC's ability to organize elections by the end of January.
End Summary.

Election Date

¶12. (U) Higher Judicial Council Head Judge Medhat al-Mahoud ruled on May 13 that parliamentary elections must take place by January 30, 2010. Judge Medhat's ruling puts an end to the debate over whether ambiguous language in the Constitution could be interpreted to stipulate that the elections should be held no later than November 15, 2009 (reftel). While the official date for the elections will be set by presidential decree, already many in Parliament, as well as IHEC, are preparing for a January election.

Parties Begin Elections Strategizing

¶13. (C) Political parties are beginning to position themselves for the national elections, and have begun the process of determining what kind of election law they want. In the aftermath of the January provincial elections, parliamentarians who were elected by a closed list in 2005 must now contemplate how to respond to the outcome of the hybrid open-list elections held this past January. Dr. Mustafa al-Hiti, of the Iraqi Front for National Dialogue, is still undecided on his support for an open or a closed-list system. He seemed to sum up the dilemma when he shared with Poloff that, "what is good for the voter is bad for me." Layla Alkhafaji, an ISCI member of the Women's Committee, supports an open-list system for the parliamentary elections, but added that this would "probably be bad for women." In Alkhafaji's view, it is easier for parties to assign women to seats under a closed list, and she thought women won fewer seats under the system used in the provincial elections

(Comment: This is not true. While it is easier for IHEC to implement a women's quota with a closed list, this can be done under an open or hybrid-open list as well. Analyses conducted by IFES show that exactly 25% of the seats in the January election went to women. End comment.)

¶4. (C) Though Prime Minister Maliki's party (Da'wa) -- and its State of Law alliance -- was the big winner in the provinces in January, Da'wa has only 12 seats in the national parliament. As the Prime Minister's party in Parliament, however, Da'wa has more influence than might be expected for such a small party. Maliki has repeatedly told us in private that he supports an open list for the national elections -- although he has not yet pronounced publicly on this. The Tawafuq/Kurd/ISCI alliance, which we assess as leaning toward a closed list, has successfully blocked some Da'wa initiatives, and Maliki and Da'wa continue their efforts (so far unsuccessfully) to reconstitute the UIA and bring ISCI back under the coalition umbrella. Meanwhile, Kurdish parliamentarians are increasingly focused on the Iraqi Kurdistan Parliament elections (which will be held under a closed-list system) planned for July 25 (septel).

IHEC Faces Review by the Parliament

¶5. (C) IHEC Chairman Faraj Haydari will soon be summoned to the Parliament for questioning regarding the administration of the January provincial elections. Backing down from his earlier statements that honor would not allow him to submit to such an "interrogation," Haydari told Poloffs he would appear before Parliament in order to defend IHEC. He complained that the questioning would be a political show, with parties that fared poorly in the provincial elections

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using the opportunity to beat up on IHEC and claim that their losses reflect poor electoral administration rather than their lack of popular appeal. Haydari expressed a willingness to answer good-faith questioning from Parliament, but said that public second-guessing of the decisions of the independent Electoral Judicial Panel that heard appeals to IHEC's electoral complaint decisions would be inappropriate and risked undermining IHEC's public credibility, which could harm the public's perceptions of the legitimacy of future elections.

¶6. (C) In a May 14 meeting with Haydari, Deputy Political Counselor acknowledged that some MPs may indeed have political axes to grind and might use the questioning session to grandstand, but stressed that answering Parliament's questions was important to the democratic process, and urged him to cooperate. It is good that Speaker Samarrai is increasing Parliament's executive oversight activities; the summoning of Haydari comes in the context of the Speaker's requesting other executive officials to appear for questioning. A refusal to appear or resigning in protest, both of which Haydari had earlier threatened, would simply empower IHEC's opponents. Haydari took the point, but (understandably) does not relish appearing before Parliament. He said that IHEC will prepare a report to answer the questions that the Parliament presents to him. We have heard that this session may take place on May 30 or on June 2.

¶7. (C) We understand that some parliamentarians, particularly from Fadhila and IIP, may press for the removal of some or all of the IHEC Board of Commissioners. In a recent conversation with Poloff, Dr. Saleem al-Jaboori, an IIP parliamentarian from the Tawafuq coalition, said that he wanted both IHEC Chairman Haydari and IHEC Chief Electoral Officer Judge Kasim al-Aboodi to resign. UNAMI Electoral Advisor Sandra Mitchell warns that if more than three Board members are asked to resign, IHEC will not have enough Board members to operate -- and this could jeopardize planning for

national elections. She is also adamant that Chairman Haydari's leadership is critical to the success of IHEC and that he should remain the chairman.

Comment

¶8. (C) As parliamentarians become more engaged on elections legislation, we will continue to meet with them to learn about their positions and to press them to establish a legislative framework for elections as quickly as possible. We remain concerned about IHEC's ability to successfully organize a busy elections schedule this year. Along with UNAMI, we continue to provide technical support that will enable IHEC to complete the KRG elections on July 25, a national Voter Registration Update starting on August 1, and parliamentary elections sometime in January 2010. We have repeatedly stressed to Chairman Faraj the importance of better IHEC outreach to political parties and parliamentarians. That there is considerable anti-IHEC sentiment in Parliament is clear. IHEC is an easy scapegoat and it is an election season. Moreover, IHEC's inadequate public outreach to Parliament on various aspects of the provincial elections, especially the complex seat-allocation formula and the dispute-resolution process, has left some MPs confused or with the impression that there has been electoral malfeasance. Also, there have been charges of corruption in IHEC. We are following Parliament-IHEC relations closely.

HILL